

§ 70.412

(25) *Distribution and use of tax-free alcohol.* Part 22 of title 27 CFR contains the regulations relating to tax-free alcohol and covers the procurement, storage, use, and recovery of such alcohol; and included requirements in respect to industrial use and withdrawal permits.

(26) *Liquors and articles from Puerto Rico and the Virgin Islands.* Part 26 of title 27 CFR contains the regulations relating to the production, bonded warehousing, and withdrawal of distilled spirits, and denatured spirits, and the manufacture of articles in Puerto Rico and the Virgin Islands to be brought into the United States free of tax and the collection of internal revenue taxes on taxable alcoholic products coming into the United States from Puerto Rico and the Virgin Islands. Regulations respecting spirits produced in Puerto Rico or the Virgin Islands and brought into the United States and transferred from customs custody to internal revenue bond are also contained in this part.

(27) *Importation of liquors.* Part 27 of title 27 CFR contains the substantive and procedural requirements relative to the importation of distilled spirits, wines, and beer into the United States from foreign countries including commodity taxes, permits, marking, branding, and labeling of containers and packages.

(28) *Exportation of liquors.* Part 28 of title 27 CFR contains the regulations relating to exportation including, where applicable, lading for use on vessels and aircraft, transfer to a foreign-trade zone, or transfer to a manufacturing bonded warehouse, Class 6, of distilled spirits (including specially denatured spirits), beer (including beer concentrate), and wine, and transfer of distilled spirits and wine for deposit in a customs bonded warehouse, whether without payment of tax, free of tax, or with benefit of drawback. It includes requirements with respect to removal, shipment, lading, deposit, evidence of exportation, losses, claims, and bonds.

[T.D. ATF-251, 52 FR 19325, May 22, 1987]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 70.411, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

27 CFR Ch. I (4-1-10 Edition)

EFFECTIVE DATE NOTE: By T.D. TTB-79, 74 FR 37424, July 28, 2009, § 70.411 was amended as follows, effective July 28, 2009 through July 30, 2012.

a. In paragraph (a), by removing the second sentence;

b. In paragraph (b), by adding, after the first sentence, a new sentence to read as set forth below;

c. Also in paragraph (b), in the last sentence, by adding after “qualification” the words “and registration”;

d. In paragraph (c)(16), by removing the words “special (occupational) taxes imposed on wholesale and retail dealers in liquors, wholesale and retail dealers in beer, and limited retail dealers” and adding, in their place, the words “registration requirement imposed on wholesale and retail dealers in liquors and wholesale and retail dealers in beer”;

e. In paragraph (c)(27), by removing the words “special (occupational) and”;

f. By removing the OMB justification statement at the end of the section.

§ 70.412 Excise taxes.

(a) *Collection.* Taxes on distilled spirits, wines, and beer are paid by returns. If the person responsible for paying the taxes has filed a proper bond to defer payment, such person may be eligible to file semimonthly or quarterly returns, with proper remittances, to cover the taxes incurred on distilled spirits, wines, and beer during the semimonthly or quarterly period. Payment must accompany the return unless required to be made by electronic fund transfer (EFT). If the taxpayer is not qualified to defer taxpayment, or has been placed on a prepayment basis, the taxpayer must prepay the tax on the distilled spirits, wines, or beer. Distilled spirits, wines, and beer tax returns are filed in accordance with the instruction on the return forms, which are furnished to industry members by TTB. Detailed information respecting the payment of tax on liquors, including the forms to be used and procedures to be followed, is contained in the respective regulations described in § 70.411(c).

(b) *Assessment.* If additional or delinquent tax liability is disclosed by an investigation, or by an examination of records, of a qualified plant or permittee, a notice (except where delay may jeopardize collection of the tax, or where the amount involved is nominal

or the result of an evident mathematical error) is sent to the taxpayer advising of the basis and amount of the liability and affording the taxpayer an opportunity to submit a protest, with supporting facts, or to request a conference.

[T.D. ATF-251, 52 FR 19325, May 22, 1987, as amended by T.D. ATF-271, 53 FR 17549, May 17, 1988. Redesignated and amended by T.D. ATF-301, 55 FR 47606, 47653, Nov. 14, 1990; T.D. ATF-450, 66 FR 29028, May 29, 2001; T.D. TTB-41, 71 FR 5605, Feb. 2, 2006]

EFFECTIVE DATE NOTE: By T.D. TTB-79, 74 FR 37424, July 28, 2009, § 70.412 was amended in paragraph (a), by removing the sixth sentence and, in the last sentence, by removing the words “and the payment of occupational taxes”; and by removing the OMB justification statement at the end of the section, effective July 28, 2009 through July 30, 2012.

§ 70.413 Claims.

(a) *Claims for remission.* When distilled spirits (including distilling material and denatured spirits), wine, or beer on which the tax has not been paid or determined is lost, and the person liable for payment of the tax thereon desires to be relieved from such liability, such person may file claim on Form 5620.8 for remission of tax on the quantity that was lost. The appropriate TTB officer may, in any event, require such a claim to be filed, and will require it if circumstances indicate that the loss was caused by theft or, in the case of distilled spirits (including distilling material), unauthorized voluntary destruction. On receipt of a claim the appropriate TTB officer makes a factual determination, and notifies the claimant of allowance or rejection of the claim. If the claim is rejected, and circumstances so warrant, the appropriate TTB officer will take appropriate steps to collect the tax.

(b) *Claims for abatement.* When the tax on distilled spirits, wines, or beer is assessed and the taxpayer thinks that the tax is not due under the law, such taxpayer may file a claim for abatement of the tax on TTB Form 5620.8 with the officer who made demand for the tax. Such officer may call upon the taxpayer to file a bond in double the amount of the tax in order to insure collection of the tax if the claim is rejected. When the claim is acted upon, the taxpayer is notified of the allow-

ance or rejection of the claim. If the claim is rejected, such officer, will initiate action to collect the tax.

(c) *Claims for refund*—(1) *Taxes illegally, erroneously, or excessively collected.* A claim for refund of taxes illegally, erroneously, or excessively collected may be filed by the taxpayer with the officer who collected the tax. Such claim must be filed within three years (two years under certain circumstances) after the date of payment of the tax. If the claim is rejected, the taxpayer is notified of the rejection by registered or certified mail, and the taxpayer may then bring suit in the U.S. District Court or the Court of Claims for recovery of the tax. Such suits must be filed generally within two years from the date of mailing of the rejection notice. If the claim is allowed, a check for the amount of the refund and allowable interest is forwarded to the taxpayer; however, if there are other unpaid taxes outstanding against the taxpayer, the overpayment may be applied to the outstanding taxes and the balance, if any, refunded.

(2) *Taxes on liquors lost, destroyed, returned to bond, or taken as samples by the United States.* A taxpayer may, subject to the conditions in the appropriate regulations, file claim on Form 5620.8 for refund of tax paid on:

(i) Spirits returned to bonded premises, lost by accident or disaster, or taken as samples by the United States, or

(ii) Wine returned to bond as unmerchable, or lost by disaster, or

(iii) Beer returned to a brewery or voluntarily destroyed, or lost, whether by theft or otherwise, or destroyed or otherwise rendered unmerchable by fire, casualty, or act of God. If the claim is allowed, a check for the amount of the refund is forwarded to the claimant; except, that where there are any unpaid taxes outstanding against the claimant, the refund may be applied to the outstanding taxes and a check for the balance, if any, forwarded to the claimant. If the claim is rejected, a copy of the claim giving the reasons for rejection is forwarded to the claimant.